



**PUBLIC SECTOR/PRIVATE SECTOR INTERACTION
IN PROVIDING INFORMATION SERVICES**

**REPORT TO THE NCLIS FROM THE
PUBLIC SECTOR/PRIVATE SECTOR TASK FORCE**

OCTOBER 2000

**A REPRINT WITH EDITORIAL CHANGES AND SUPPLEMENTARY MATERIAL
OF A REPORT ORIGINALLY PUBLISHED IN FEBRUARY 1982**



NCLIS

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- advising the President and the Congress on the implementation of policy;
- conducting studies, surveys, and analyses of the library and informational needs of the nation;
- appraising the adequacies and deficiencies of current library and information resources and services; and
- developing overall plans for meeting national library and informational needs.

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A reprint with editorial changes and supplementary material
Of a report originally published in February 1982

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This report is being reissued in October 2000 for review and reaction by policy makers and citizens, generally, and by members of the library and information services community in the context of renewed debate on the appropriate role of the public and private sectors in the United States, particularly for access to and dissemination of electronic government information. The original report was prepared by an independent Task Force assembled and funded by the U.S. National Commission on Libraries and Information Science.



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Public Sector/Private Sector Interaction In Providing Information Services

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INTRODUCTION TO THE OCTOBER 2000 EDITION

Eighteen years after the initial publication of *Public Sector/Private Sector Interaction In Providing Information Services*, the U.S. National Commission on Libraries and Information Science is still actively engaged in the evaluation of national information policy, particularly as it relates to the dissemination of, and public access to, government information. In fact, the Commission is presently completing a Comprehensive Assessment of Government Information Dissemination Policies and Practices, requested by Senator John McCain, Chairman of the Senate Committee on Commerce, Science, and Transportation, and joined by Senator Joseph Lieberman, ranking minority member of the Senate Committee on Governmental Affairs. This Task Force report is one of the resources for the current assessment.

Enormous changes in technology have occurred in the years since the *Public Sector/Private Sector Task Force Report* was first issued, particularly the widespread availability of the Internet and the World Wide Web. New laws have been passed and new policies have been written to govern public access to government information (some of which have been incorporated as appendices to this reprint). However, even with all of these changes, the principles and recommendations of the Public Sector/Private Sector Task Force continue to provide a valuable basis for discussion and implementation of public information policy. It is a tribute to the efforts of the Task Force that their work remains as relevant today as it did when it was issued. The Commission is reprinting it now so that a whole new generation of individuals debating and implementing government information policy can benefit from the work of the Task Force.

In 1982 it was the consensus of the Task Force that the "dependence among the principles was mutual rather than hierarchical," so each principle should be "considered as independently valid," although "they mutually depend upon each other, and they will conflict with each other in specific situations." The Task Force deemed that to be "appropriate and in no way vitiating the importance of the principles." As they noted, "it simply means that the world is complex and that principles can only guide decisions, not make them." (Page 43)

The Task Force report includes one of the earliest uses of the phrase "information infrastructure", saying: "The U.S. [does not] have a national policy on the development of the *information infrastructure in the U.S.*" (Page 23)

The Task Force was farsighted in suggesting that "encouraging libraries to develop services based on new technologies (making the public library, in particular, the 'electronic information center' for the general public in each community)" would enhance the role of libraries with respect to the distribution of government information. (Page 46; Page 59)

The Task Force noted that libraries "provide the 'safety valve' for information access for society, especially so that 'ability to pay' does not prevent persons from getting access to information they need." (Page 25) They also acknowledged that a "crucial function provided by the libraries is ... the assurance of means of access, even if the private sector is indeed used as the means for distribution of governmental information." (Page 45)

This edition includes "A Retrospective Appraisal of the 1982 NCLIS Public Sector/Private Sector Task Force Report" prepared by Robert M. Hayes, Professor Emeritus at the Department of Library and Information Science, University of California, Los Angeles, who chaired the 1982

NCLIS Public Sector/Private Sector Task Force. Dr. Hayes looked back at the findings, conclusions, and recommendations made by the Task Force in the light of very dramatic interim developments, particularly the evolution of the World Wide Web and the Internet. He was asked to assess whether or not, in his view, those interim events change in any significant way those 1982 findings and recommendations. His appraisal appears as Appendix G in the Chapter IX: Appendices for the 2000 Edition. (Page 182)

The Appendices for the 2000 Edition also include the NCLIS Principles of Public Information, adopted by the Commission in June 1990 (Appendix B), as well as the complete text of, or extracts from, several key documents on public access to government information that have been issued since the publication of the Task Force report. These include:

- the text of Public Law 104-13, the Paperwork Reduction Act, enacted in 1995 (Appendix C);
- the text of OMB Circular A-130: Management of Federal Information Resources, issued in 1996 (Appendix D); and
- excerpts from *Informing the Nation*, a report of the U.S. Congress Office of Technology Assessment, published in 1982 (Appendix E);
- excerpts from *A Nation of Opportunity*, the final report of the United States Advisory Council on the National Information Infrastructure, published in 1996 (Appendix F).

The Task Force report itself is substantially unchanged except for its format and some minor editorial changes (usually appearing in square brackets). These changes include the imposition of numbering scheme to facilitate identification of the sections and subsections, as well as clarification of acronyms and references to publications, government agencies and programs that were incomplete or are now known by different names. Because reformatting has changed the page numbers, original pagination appears at the appropriate point in the text in square brackets.

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1 FEBRUARY 1982

This report was prepared by an independent Task Force assembled and funded by the U.S. National Commission on Libraries and Information Science. The Commission has reviewed the report and determined that the Task Force has fully and effectively met its charge.

Although the Commission as a whole has not yet formally acted upon the report, it is being released at this time for review and reaction by policy makers and citizens, generally, and by members of the library and information services community, as they participate in the emerging national debate on the appropriate role of the public and private sectors in the United States.



**National Commission on
Libraries and Information Science**

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ABSTRACT

This Report of the NCLIS Public Sector/Private Sector Task Force presents the results of a two-year study of the interactions between government and private sector information activities. It identifies two primary issues:

- 1) The crucial importance of information resources, products, and services in our economy and society.
- 2) The conflicting views concerning the proper role of government in providing those information resources, products, and services.

It describes the contexts for conflict between the public and private sectors with respect to the purposes for government to provide services, the audience to be served, the services provided, and the effects on the private sector if government does provide information products and services in commerce.

The Report presents the historical background for present concerns, reviews the sources of conflict among the sectors, and then presents the results of the Task Force deliberations, in the form of a set of seven principles and twenty-seven recommendations for implementation of those principles. The principles relate to the following major issues:

- 1) The need for the Federal government to take a position of leadership in facilitating the development and fostering the use of information products and services. As part of that, the open dissemination of information from governmental activities should be regarded as a high priority responsibility, especially through private sector means.
- 2) Private sector investment in information resources, products, and services should be encouraged and not discouraged. As part of that, libraries and other information activities in the private sector should be used as the means for distribution of information from the Federal government, in preference to using newly created governmental agencies.
- 3) The government should not engage in commercial information activities unless there are compelling reasons for it to do so and there must be well-defined procedures for determining that such reasons indeed are present. Prices for government products and services should be consistent with the actual costs for making the information available.
- 4) If private sector information is included in any package of governmentally distributed information, the private sector property rights should be carefully protected.

The Report presents some preliminary suggestions on steps to be taken to implement the principles and recommendations.

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EXECUTIVE SUMMARY

Information is a resource of immense economic and social value. It is vital to the proper functioning of a democratic society, a crucial tool in a productive economy and an effective government, a central part of the growth and well being of individuals. Perhaps because of its importance, information has become a focal point of concern about the relationships among the many sectors of our society, both governmental and private. Those issues have become the subject of political debate, as both the Federal government and private enterprise have expanded the range of information products and services they provide, each to some extent depending upon the other but also competing with the other.

The Public Sector/Private Sector Task Force was established by the National Commission on Libraries and Information Science in June 1979. It was asked to review interactions among the several sectors concerned with development of information resources, products, and services. The purpose was to explore the issues involved, to identify the conflicts, and to recommend means for resolving those conflicts. Working during a period of two years, this group argued its way across the complicated landscape of information policy issues. The results of those debates have been presented in the Report of the Task Force, submitted to the NCLIS in August 1981.

The purpose of this Executive Summary is to provide a quick overview of the substance of the Report. In doing so, it will of necessity condense and simplify what are exceptionally complex issues, so it should be viewed solely as a summary, not as a replacement for the Report as such. [Page viii]

THE FUNDAMENTAL ISSUES.

The work of the Task Force can be summarized in terms of two statements, the first of them representing a point of unanimous agreement and the second representing the focus of major philosophical disagreement. First, the point of agreement is an affirmation of the very context for establishing the Task Force:

- Information resources, products, and services are vital components of our society, of our economic productivity, of our governmental operation, of our individual growth and well-being. They are increasing in their value and

importance, however their role may be measured. Government policy should be designed to foster the development and use of information resources and to eliminate impediments to such development and use.

As will be summarized below, most of the principles identified by the Task Force (especially Principles 1, 2, 5, and 7) reflect this view. They are each intended to identify guidelines for Federal policy that will support the development and use of information resources, products, and services.

Second, the focus of differences in philosophy and principle:

- There are basic differences in view concerning the proper role of the Federal government (or of government in general) with respect to providing information resources, products, and services. They result in conflicts between restricting and not restricting the role of government.

Those on the Task Force who would restrict the role of government would prefer to place reliance on market forces. They point out that:

- 1) Our society is founded on the traditional view that individual freedom and initiative, expressed through competitive private enterprise, are the best means of supplying the products and services needed by society.
- 2) Government entry into the marketplace can have a chilling effect on private sector investment in the generation, collection, and distribution of information.
- 3) When the government enters the marketplace, it interferes with the ability of the market mechanism to allocate resources to the optimum production of goods and services. [Page ix]
- 4) The private sector, if not threatened by the anti-competitive effects of government in the marketplace, can widen the distribution of information from government as well as from other sources.

In contrast, those who would favor not restricting the role of government will point to the following:

- 1) There is need to ensure equitable, open access by the public in general to information which has been generated, collected, processed, and/or distributed with taxpayer funds.
- 2) To participate fully in our democratic society, citizens must be informed and aware, regardless of their individual ability to pay for needed information.
- 3) Information needs that are not served by the marketplace must be met by government.
- 4) The government has a role to play in stimulating the development of information as a resource for dealing with societal problems.

The remaining principles (Principles 3, 4, and 6) and most of the recommendations are concerned with means for resolving the conflicts implied by this major issue of philosophical difference.

THE CONTEXTS OF CONFLICT.

The contexts in which government plays a role, as they are specific to information resources, products, and services, pervaded the discussions of the Task Force. They were exemplified in specific governmental activities, both current and potential, in which conflict has, to one extent or another, arisen. The degree of conflict ranges from limited to high, depending upon how the role of government is determined, what the value is of the information involved, what the audience is for that information, where and how the information is obtained, whether there are existing sources for the same information.

Virtually every combination of points on these several spectrums was raised during the discussion. To illustrate two extreme examples:

- A government disaster protection service, providing information freely to the general public, with Congressional authorization and funding, would raise few objections even from the members of the Task Force most anxious to restrict the role of government. [Page x]
- A government service that was extensively marketed and directed at industrial and commercial markets that were already served by an existing private sector service would raise objections even from the members of the Task Force most reluctant to restrict the role of government.

But between those two extremes, there are numerous situations, each to some extent represented by a specific government information activity, on which there would be dichotomous views concerning the extent to which the Federal government agency involved should or should not provide such information resources, products, or services.

FINDINGS OF THE TASK FORCE.

Despite those dichotomous views with respect to specific situations, the members of the Task Force reached nearly unanimous agreement on each of a set of principles which should guide Federal government involvement in information activities. The members of the Task Force also reached substantial, and in most cases nearly unanimous, agreement on a set of recommendations for steps to be taken in implementation of those principles.

In general, these principles and recommendations are

- In favor of open access to information generated by the Federal government.
The view of the Task Force is that it is in the national interest for information in general to be widely and readily available to the public. Information generated (with emphasis on "generated") by the Federal government represents a valuable resource. The principles are intended to reinforce the importance of ensuring public access to it.
- In favor of reliance upon libraries and private sector organizations (both for-profit and not-for-profit), to make readily available information that can be distributed by the Federal government.

The view of the Task Force is that these two groups of institutions, taken together, provide the best means for ensuring public access to such information. On the one hand, use of libraries, especially public and academic libraries, ensures that "ability to pay" does not raise barriers which effectively and discriminatively deny access to information. On the other hand, the use of private sector organizations, in the business of providing [Page xi] information services, ensures that individual freedom and initiative will be dedicated to developing and marketing a multiplicity of information services whose value is determined by the purchasers rather than by government. The principles and recommendations emphasize the importance of using this balance of means for access, in contrast to creating new agencies to do so.

- In favor of a leadership role for government, rather than a management role.

The Federal government has an opportunity to play a significant role in fostering the use of information as an economic and social resource. The key, though, is leadership not management, so as to encourage development by the private sector of information resources, products, and services that will meet the needs of the public.

- In favor of limiting direct government intervention in the marketplace.

While the Task Force recommends against arbitrary exclusion of the Federal government from providing services that the political process identifies as needed, it does recommend that the government not enter the marketplace unless there are clearly defined, compelling reasons for doing so. Furthermore, any such decision should be subject to periodic review to ensure that circumstance continue to warrant such activity. The view of the Task Force is that the entry of the Federal government into the marketplace must be subject to checks and balances.

PRINCIPLES & RECOMMENDATIONS.

The Task Force is in unanimous agreement about the importance of information today in our society and our economy, whether it is perceived as a capital resource or as a facilitating agent. Information resources, products, and services deserve government attention and support. The principles and recommendations that resulted from the discussions of the Task Force are intended to provide the basis for accomplishing that goal. The summary of them presented here can only sketch out the range of issues involved and cannot even begin to describe the points of controversy. It is important to emphasize that they must be viewed as an integral whole; implementation of just a set of them, in isolation from the others, could be a totally negative result. The Task Force therefore strongly urges that they all be treated in the context of the whole. [Page xii]

[1.] LEADERSHIP ROLE FOR GOVERNMENT.

Principle 1 identifies the need for government to provide leadership in facilitating the development and fostering the use of information products and services. The implementing recommendations emphasize the need for an expanded interpretation of freedom of speech and the

press, the development of manpower for providing information services, research and data-gathering for better decision making concerning information policies, greater consistency in applying information policies in Congressional actions. These recommendations were all endorsed, virtually unanimously, by the Task Force.

Beyond them, the Task Force was in general agreement with the recommendation that dissemination of information should be a high priority responsibility of government. This view is expressed explicitly in Principle 5, which urges that governmentally distributable information should be made openly available in readily reproducible form, without constraints on subsequent use. The means for accomplishing that objective, though, were the major focus of discussion.

[2.] ENCOURAGEMENT OF PRIVATE INVESTMENT.

First, the Task Force was unanimously of the view that private sector investment is essential if there is to be enhanced access to and wider dissemination of information, including that distributable by the government. That view was embodied in Principle 2, which urges the government to encourage, and not to act in ways that will discourage private investment. The associated recommendations identify the need to eliminate regulatory barriers, to encourage private industry to add value to government furnished information, to involve the private sector in planning with respect to governmental information activities, and to assure that the resulting decisions are consistent with policies.

Beyond that, the Task Force urges, in Principle 7, that the Federal government should actively use existing mechanisms, such as the libraries of the country, as the means for making governmentally distributable information available to the public. This is intended to foster development both in the private sector and the library community; it is also intended that these means be used instead of creating new governmental agencies for functions of information distribution.

[3.] GOVERNMENT IN COMMERCE.

The issues of greatest concern to the Task Force arise when the government itself engages in commercial distribution of information. On the one hand, government clearly has responsibilities for information functions in collection and distribution of information in areas defined by the Constitution and mandated by Congress. At the very least, there is information that government must provide — a record of its actions, explanations of the law, descriptions of services. On the other hand, as the government's role in producing and [Page xiii] providing information expands, the likelihood increases that the greater diversity achievable by private investment will be discouraged.

Principle 3 and the associated recommendations, which should be treated as integral parts of it, are the means by which the Task Force has reconciled the issues. The Task Force sets conditions that must be met for government to engage in commercial distribution of information products and services: There must be "compelling reasons" for doing so, and there must be well defined procedures for involvement of the private sector in the decision that there indeed are compelling reasons, including review and evaluation of the impact of the proposed services. The phrase "compelling reasons" was chosen because the Task Force was unable to identify universally applicable rules for deciding when the government should directly provide services, but perhaps of even more importance is the fact that the answer will only be found in a process, not in a catch phrase. The recommendations associated with this principle are therefore essential to it, since they spell out the proposed decision making process to be followed.

Of much greater controversy was whether, other conditions being met, the government should be permitted to enhance information products and services solely to meet the needs of constituencies outside the government itself. In the only recommendation that was not a substantial consensus, the Task Force recommends that the government not be restricted from such enhancement.

The pricing policies for information distributed by the government were considered. In principle 6, the Task Force was unanimous in concluding that they should reflect the true cost of access and/or reproduction, unless there are Congressionally specified reasons for subsidy. Specifically, that means that prices should not be set to recover the costs of creating the data in the first place, nor should they be set artificially high or low.

[4.] USE OF PRIVATE SECTOR INFORMATION.

Information compiled by the government frequently includes material taken, directly or indirectly, from private sources. Aside from the aspects of personal privacy, currently well covered by applicable laws, there are problems with respect to preservation of private property rights in such data. In Principle 4, the Task Force addresses these problems and urges that those property rights be protected.

IMPLEMENTATION.

The recommendations fall into four broad categories, for each of which there are appropriate agencies to be responsible for implementation:

- 1) Issues of general, national concern. These represent matters for which Congress should be primarily responsible. The NCLIS can play an important role in identifying the issues and in recommending to Congress what should be done about them. (Recommendations 1, 2, 3, 8, 9). [Page xiv]
- 2) Issues essentially focused within the government. These also represent matters for which Congress should take primary responsibility. Beyond that, however, the OMB and the various agencies of government must take the operational responsibility. And again, NCLIS can play an important role in identifying the issues and making recommendation to the agencies that they consider the applicability of policies to their operations. (Recommendations 4, 19, 20, 21, 22, 23).
- 3) Issues relating to interactions among the sectors. Clearly both government agencies and private sector organizations must together be actively involved in implementing these recommendations. The NCLIS can serve an important role in facilitating communication between the two groups. (Recommendations 5, 10, 11, 12, 15, 16, 17, 18, 24, 25, 26, 27).
- 4) Issues related to the private sector itself. These clearly must be the responsibility of the private sector, although Congress might consider legislation needed for encouragement or even, where appropriate, support of private sector activities. (Recommendations 6, 7, 13, 14).

With respect to steps which the NCLIS itself can take directly, it seems appropriate for NCLIS to initiate discussions with Executive Branch agencies currently engaged in information

activities to which the principles and recommendations of this Report may apply. Appendix 3 of the Report identifies a number of those agencies and information activities, as a starting point for such discussions.

STRUCTURE OF THE REPORT.

The Report of the Task Force is organized into five sections:

- An introduction and summary, presenting the background and summarizing the principles, recommendations, and means for implementation of them which were the specific results of the work of the Task Force.
- A set of definitions of terms used in the Task Force discussions. While definitions may be pedantic, they are crucial if the terms [Page xv] in the several principles and recommendations are to be interpreted as the Task Force intended.
- A review of the general context for the work of the Task Force, including historical background, identification of the players and their roles, description of the interactions among the sectors, and summary of recent policy statements. This review provides a picture of the situation that led to establishing the Task Force and that makes the issues involved important enough to have warranted this degree of attention.
- A presentation of "principles", each of which is the nearly unanimous consensus of agreement by the Task Force on what ought to be the fundamental guides to policy in the Federal government with respect to distribution of information products and services by government agencies. While the bald statement of each of them may appear to be rather innocuous, they each represent issues of significance and controversy and frequently of deep philosophical differences among members of the Task Force. The discussion presented of them tries to convey some of the aspects deemed important.
- A set of recommendations, providing the means for implementing the principles and, in some cases, representing essential elements in the resolution of conflicts in arriving at agreement on principles. Again, the discussion attempts to convey the points at issue so that the recommendations can be seen as meaningful.

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